

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

SHANNON PHILLIPS
and JOAN PHILLIPS,

Plaintiffs,

v.

Civil Action No. 2:14-26148

WILBUR THAXTON II,
CHARLES R. GARRETT,
and CYNTHIA H. GARRETT,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Cheryl A. Eifert, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b) (1) (B) .

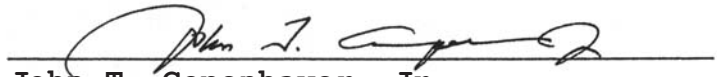
The court has reviewed the Proposed Findings and Recommendation entered by the magistrate judge on November 5, 2014. The magistrate judge recommends dismissal of plaintiffs' complaint for failure to state a claim upon which relief can be granted arising, inter alia, out of their failure to allege actions taken under color of state law. The magistrate judge further recommends that plaintiffs' motion to proceed without prepayment of fees and costs be denied.

After receiving from the court an extension of time, plaintiffs filed their objections on December 24, 2014. The objections briefly disclose that plaintiffs believe they are being treated unfairly due to alleged nepotism allegedly countenanced by a circuit judge presiding over a related matter in the Circuit Court of Kanawha County. This allegation, and the additional allegations found in the objections, do not appear to give rise to constitutional deprivations committed under the color of state law. The objections are thus not meritorious. The court concludes the recommended disposition is correct. Accordingly, it is ORDERED that:

1. The Proposed Findings and Recommendation be, and it hereby is, adopted by the court;
2. The motion to proceed without prepayment of fees and costs be, and hereby is, denied; and
3. This action be, and it hereby is, dismissed.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiffs, all counsel of record, and the United States Magistrate Judge.

DATED: January 9, 2015


John T. Copenhaver, Jr.
United States District Judge